

Subpart C—Relationship and Dependency

AUTHORITY: Sec. 702(a)(5) of the Social Security Act (42 U.S.C. 902(a)(5)), secs. 402, 412(a), 426(a), and 508, 83 Stat. 792; 30 U.S.C. 902, 922(a), 936, and 957.

§ 410.300 Relationship and dependency; general.

(a) In order to establish entitlement to benefits, a widow, child, parent, brother, or sister must meet relationship and dependency requirements with respect to the miner or widow, as applicable, prescribed by or pursuant to the Act.

(b) In order for an entitled miner or widow to qualify for augmented benefits because of one or more dependents (see § 410.510(c)), such dependents must meet relationship and dependency requirements with respect to such beneficiary prescribed by or pursuant to the Act.

(c) References in §§ 410.310(c), 410.320(c), 410.330(d), and 410.340, to the “same right to share in the intestate personal property” of a deceased miner (or widow), refer to the right of an individual to share in such distribution in his own right and not by right of representation.

[37 FR 20638, Sept. 30, 1972]

§ 410.310 Determination of relationship; wife.

An individual will be considered to be the wife of a miner if:

(a) The courts of the State in which such miner is domiciled (see § 410.392) would find that such individual and the miner were validly married; or

(b) The courts of the State in which such miner is domiciled (see § 410.392) would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's wife; or

(c) Under State law, such individual has the same right she would have if she were the wife to share in the miner's intestate personal property; or

(d)(1) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment (see § 410.391), would have

been a valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household (see § 410.393) in the month in which there is filed a request that the miner's benefits be augmented because such individual qualifies as his wife (see § 410.510(c)). The provisions of this paragraph shall not apply, however, if the miner's benefits are or have been augmented under § 410.510(c) because another person qualifies or has qualified as his wife and such other person is, or is considered to be, the wife of such miner under paragraph (a), (b), or (c) of this section at the time such request is filed.

(2) The qualification for augmentation purposes of an individual who would not be considered to be the wife of such miner but for this paragraph (d), shall end with the month before the month in which (i) the Administration determines that the benefits of the miner should be augmented on account of another person, if such other person is (or is considered to be) the wife of such miner under paragraph (a), (b), or (c) of this section, or (ii) if the individual who previously qualified as a wife for purposes of § 410.510(c), entered into a marriage valid without regard to this paragraph, with a person other than such miner.

[36 FR 23756, Dec. 14, 1971, as amended at 37 FR 20638, Sept. 30, 1972]

§ 410.311 Determination of relationship; divorced wife.

An individual will be considered to be the divorced wife of a miner if her marriage to such miner has been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided*, That if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which that divorce became final.

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